

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JODY HUSTON,

Defendant.

CR 14–1–M–DLC

ORDER

Before the Court is Defendant Jody Huston’s Unopposed Motion to Return Property. (Doc. 78.) Mr. Huston requests the return of two cell phones (Samsung Phone: R5CRB1142TW, and Samsung Galaxy Phone: Notebook: 351043170614965) that were seized by United States Probation Officers. (*Id.* at 1–2.) The United States does not object to the motion. (*Id.* at 1.)

Where, as here, a motion for return of property is made “when the property in question is no longer needed for evidentiary purposes” because the criminal proceeding is complete, the defendant is presumed to have a right to the property’s return, and the government must demonstrate that it has a legitimate reason to retain the property. *United States v. Gladding*, 775 F.3d 1149, 1152 (9th Cir. 2014) (internal quotation omitted). Because the burden of showing a legitimate reason to retain the property lies with the government, and the government does not object to the return of the cell phones, Mr. Huston’s motion will be granted.

Accordingly, IT IS ORDERED that the motion (Doc. 78) is GRANTED.

The cell phones shall be returned to Mr. Huston or his designee. Any other property seized by United States Probation Officers from Mr. Huston may be destroyed.

DATED this 10th day of March, 2022.



Dana L. Christensen, District Judge
United States District Court